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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,263	06/02/2000	Donald F. Gordon	19880-002210	5643

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EXAMINER
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SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/585,263

Applicant(s)

GORDON ET AL.

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3, 5, and 7-8 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Objections***

2. Claim 5 is objected to because of the following informalities: Line 9 reads "a the particular broadcast" and should read --a particular broadcast--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, and 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (5,986,650) [Ellis].

Regarding claims 1, 9, and 10, Ellis discloses a method for providing channel information windows (fig. 5A-5C) comprising:

transmitting a broadcast video presentation from a server to a terminal, the broadcast video presentation being programming from one of a plurality of channels (method takes place in a standard cable broadcast system);

transmitting a bitmap for a channel information window from the server to the terminal (the broadcasts include program guide data, col. 4, lines 55- 67 which includes the bitmaps of the channel information windows shown in figs. 5A-5C, col. 6, lines 28-44);

receiving at the terminal a signal to activate the channel information window (col. 9 line 62 – col. 10 line 11); and

overlaying the bitmap for the channel information window over the broadcast video presentation on a display associated with the terminal so that the channel information window obscures a portion of the broadcast video presentation (as shown in figs. 5A-5C, col. 6, lines 45-61).

Regarding claim 2, Ellis discloses the method of claim 1, wherein transmitting the bitmap for the channel information window is performed via an out of band channel (the scheduling information is downloaded to the receiver using any known transmission means, including OOB channels, col. 5, lines 1-10).

Regarding claim 3, Ellis discloses the method of claim 1, wherein transmitting the bitmap for the channel information window includes:

encoding at the server the bitmap for the channel information window to generate an encoded bitmap and transmitting the encoded bitmap to the terminal

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(the scheduling data is encoded and modulated at the server in order to transmit it along the cable line to the receiver, col. 5, lines 1-10);

receiving at the terminal the encoded bitmap and decoding at the terminal the encoded bitmap to regenerate the bitmap for the channel information window (an inherent feature, as the received data must be decoded in order to utilize it).

Regarding claims 5, 11, and 12, Ellis discloses a method navigating (col. 9, lines 1-18) comprising:

transmitting a plurality of broadcast video displays on a plurality of channels from a server to a terminal, the broadcast video displays including a particular broadcast video display, each broadcast video display being programming from one of the channels (method takes place in a standard cable broadcast system);

transmitting a channel information window having information about the channels from the server to the terminal (the broadcasts include program guide data, col. 4, lines 55- 67 which includes the bitmaps of the channel information windows shown in figs. 5A-5C, col. 6, lines 28-44);

overlaying the channel information window on a particular broadcast video display on a display so that the channel information window obscures a portion of the broadcast video display (as shown in figs. 5A-5C, col. 6, lines 45-61);

navigating among the channels within the channel information window by selecting information about another channel and changing the particular

broadcast video display in synchronization with the navigation so that the channel information window obscures a portion of the broadcast video presentation (col. 9 line 62 – col. 10 line 11).

Regarding claim 8, Ellis discloses the method of claim 5, wherein navigating among the channels occurs using a special button on a remote control (col. 9 line 62 – col. 10 line 11).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis.

Regarding claim 7, Ellis disclose the method of claim 5, but fails to disclose changing the particular broadcast video display is accomplished by changing video packet streams.

Examiner takes official notice that digital television broadcasting is notoriously well known, wherein digital television provides higher resolution signals and allows for video compression which conserves bandwidth and also provides a more robust video signal.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to utilize digital television broadcasting, wherein changing the particular broadcast video display is accomplished by changing video packet streams, as digital television provides higher resolution signals and allows for video compression which conserves bandwidth and also provides a more robust video signal, as digital signals do not suffer from quality degradation due to attenuation.

### ***Conclusion***

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

  
HALTRAN  
PRIMARY EXAMINER